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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Panama

1. The Committee considered the initial report of Panama (CRC/C/8/Add.28) at its 353rd, 354th, 355th and 356th meetings (CRC/C/SR.353-356), held on 13 and 14 January 1997, and adopted* the following concluding observations:

A. Introduction

2. The Committee welcomes the initial report submitted by the State party. The Committee expresses its satisfaction at the constructive dialogue held and for the State party's self-critical approach in identifying a number of areas of concern. The Committee regrets, however, that neither the report nor the written answers to the list of issues (CRC/C/Q/PAN.1) contained information on specific measures taken by the State party to implement the Convention, including at the legislative level.

B. Positive aspects

3. The Committee notes that the Convention is directly applicable at the national level and can be invoked before the law courts or administrative authorities.

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* At the 371st meeting, held on 24 January 1997.

4. The Committee notes with satisfaction the efforts made by the Government of Panama in the field of law reform and welcomes the initiatives being undertaken by the Government to further the protection of the family and children by the adoption of the new Family Code, in force since January 1995. The Committee welcomes the promulgation of the Education Law which guarantees intercultural bilingual education for indigenous children and adults. The Committee notes with interest the Government's willingness to provide information and training to its staff, through the Ministry of Labour and Social Welfare.

5. The recent establishment of a "People's Defender" which will monitor the enjoyment of human rights in Panama, including children's rights, is welcomed by the Committee.

6. The Committee notes with satisfaction the adoption of a Pact for Children to promote children's rights in collaboration with the United Nations Children's Fund (UNICEF) and a large number of non-governmental organizations. The Committee welcomes the project on "Education for tolerance, education for democracy, human rights, development and peace" set up in 1995 by the Ministry of Education in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO).

7. The Committee notes the establishment of the Women's Department in the Ministry of Labour and Social Welfare and also of the Panamanian Institute for Special Rehabilitation which aims at assisting disabled children.

C. Factors and difficulties impeding the implementation of the Convention

8. The Committee is aware that Panama is emerging from a period of social and political upheaval which has had adverse economic repercussions. The Committee notes with concern the long-existing disparities in wealth between different groups of the population which affects the most vulnerable groups and hampers the enjoyment of children's rights.

D. Principal subjects of concern

9. While taking note of the recent achievements in the field of law reform, the Committee is concerned about the insufficient measures taken by the State party to harmonize national legislation with the principles and provisions of the Convention. In this regard, the Committee is concerned that the Family Code presently in force in Panama does not adequately address the rights recognized by the Convention.

10. The Committee is concerned that the national legislation establishes a different minimum age for marriage between boys and girls and that it authorizes the marriage of girls as young as 14 years of age. The minimum age for employment, which is under 12 in agriculture and domestic services, is also a matter of concern to the Committee. Further, the Committee is concerned that insufficient measures have been taken to protect children against sexual abuse and exploitation.

11. The Committee is concerned at the insufficient measures adopted to ensure effective coordination between different governmental departments competent in areas covered by the Convention as well as between the central and local authorities.

12. The Committee is deeply concerned about the insufficiency of measures to collect disaggregated statistical data and other information on the situation of children, especially those belonging to the most vulnerable groups. This type of information is lacking in particular with respect to girl children, children living and/or working in the streets, disabled children, children living in rural areas and indigenous children. The absence of qualitative and quantitative information on the status of children renders deficient the systematic monitoring of the implementation of the Convention.

13. The Committee is of the view that insufficient measures have been adopted to promote widespread awareness of the principles and provisions of the Convention among adults and children alike, particularly those belonging to indigenous populations. The Committee is concerned at the lack of adequate and systematic training provided to professional groups working for and with children, including judges, lawyers, law enforcement personnel, health professionals, teachers, social workers, personnel working in child care institutions for children, police officers and officials of the central and local administrations.

14. The Committee expresses its concern at the insufficient budget allocation at all levels for social expenditures, in particular in favour of children belonging to the most disadvantaged groups of the population. The Committee notes with great concern the trend towards the perpetuation of poverty amongst marginalized groups of children in Panama, where 25 per cent of families live in poverty and 20 per cent live in extreme poverty. Despite the efforts made by the State party in the health and housing sectors, the situation is still precarious.

15. Particular concern is expressed by the Committee at the insufficient measures undertaken to ensure the effective implementation of the general principles (arts. 2, 3, 6 and 12) of the Convention on the Rights of the Child in practice, especially with regard to the girl child and children belonging to indigenous groups and to poor families. The Committee is deeply concerned about the high incidence of abandoned children and by the fact that approximately 20 per cent of the children born each year are to adolescent mothers.

16. The Committee is concerned by the persistence of violence against children within the family, including the use of corporal punishment. In the light of article 17 of the Convention, the Committee is also concerned about the need for further measures to protect children from media information and material injurious to their well-being.

17. In the light of article 2 of the Convention, the Committee is concerned about the insufficient measures, including of a legislative nature, taken by the authorities to regulate adoption adequately and to prevent and combat abuses, such as the trafficking of children.

18. While recognizing the efforts undertaken by the authorities in the education system, the Committee is concerned about the persisting disparities in relation to the low access to education of children living in rural areas, indigenous children and refugee children, who do not enjoy a system of education adequate to their cultural values and identity. The Committee is also worried about the low rates of retention, the high rates of repetition and school drop-outs, especially at the end of primary education, and by the persistent problem of illiteracy amongst these groups.

19. The Committee is concerned about the insufficient legal protection and the lack of adequate procedures for refugee children, especially unaccompanied minors. It is also concerned by the difficulties encountered by those children in securing access to education, health and social services. Finally, family reunification is also a matter of concern to the Committee.

20. The Committee notes with concern that child labour remains a problem in Panama. The high number of children involved in labour, especially in rural areas and in particular in coffee-growing areas as a result of a long-standing cultural pattern, is a matter of concern, as is the fact that the Government has not adequately enforced child labour provisions in the rural areas of the country.

21. The situation in relation to the administration of juvenile justice, and in particular its lack of compatibility with articles 37, 39 and 40 of the Convention as well as with other relevant international standards, is a matter of concern to the Committee. Moreover, the apparent absence in national legislation of minimum ages below which a child may not be deprived of liberty or be considered criminally responsible causes deep concern to the Committee.

E. Suggestions and recommendations

22. Within the context of the legal reform undertaken by Panama, the Committee recommends that children's issues be accorded a higher priority in the State party. The Committee also recommends that the State party adopt all the necessary measures to ensure the full compliance of its national legislation with the Convention. In this regard, the Committee encourages the State party to pursue its efforts aimed at the adoption of a Code on Children. Furthermore, the Committee recommends that any required changes to legislation be undertaken in the light of article 2 (non-discrimination), article 3 (best interests of the child), article 6 (right to life, development and survival) and article 12 (respect for the views of the child). In this spirit, the Committee recommends that the State party define in its legislation a minimum age below which children may not be deprived of their liberty. Similarly, measures must be undertaken to ensure the conformity of national legislation with the provisions of article 37 (a) of the Convention. Further, the Committee recommends that the State party review its legislation on the age of marriage for girls with a view to raising it. The Committee encourages the State party to take all appropriate measures to protect children against sexual exploitation.

23. The Committee encourages the State party urgently to develop a comprehensive national strategy on children and to pursue its efforts to strengthen the institutional framework to promote and protect human rights in

general and the rights of the child in particular. In this regard, the Committee recommends that a permanent and multidisciplinary mechanism be developed to coordinate and monitor the implementation of the Convention at both national and local levels and in urban and rural areas.

24. The Committee recommends that the establishment of an independent body, such as an ombudsperson, be given further consideration by the Government. The Committee also encourages the promotion of closer cooperation between the State party and non-governmental organizations.

25. The Committee further recommends that the State party give priority attention to the development of a system of data collection by age, gender, rural/urban and social ethnic origin, and to the identification of appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society, to evaluate progress achieved and difficulties hampering the realization of children's rights. This is especially important in the case of Panama where historical disparities have endured, in particular with respect to female, rural and indigenous children. It is further suggested that the State party envisage requesting international cooperation in this regard, notably from UNICEF.

26. In the spirit of the United Nations Decade for Human Rights Education, the Committee recommends that the State party take measures aimed at developing a culture of human rights and at changing attitudes towards children in general, and in particular children belonging to indigenous groups. It therefore recommends that information and education about children's rights be disseminated to children and adults alike. Such information should be translated into the different languages spoken by indigenous people. Moreover, the existence of a high level of illiteracy in the country requires the use of the media in a manner adapted to the various levels of the audiences in the country.

27. The Committee recommends that training and education on the principles and provisions of the Convention be undertaken and addressed to all professionals working with or for children, including judges, lawyers, law enforcement personnel, health professionals, teachers, social workers, personnel working in child care institutions for children, police officers and officials of the central and local administrations. In addition, the Committee recommends that children's rights be included in the school curricula as a measure of enhancing respect for indigenous culture, promoting multiculturalism and combating the paternalistic attitudes prevailing in society. In this regard, the Committee encourages the State party to envisage seeking technical cooperation from appropriate international intergovernmental and non-governmental organizations, including the High Commissioner/Centre for Human Rights and UNICEF.

28. With respect to articles 2, 3 and 4 of the Convention, it is the opinion of the Committee that appropriate budgetary provisions should be made to the maximum extent possible. In this regard, particular attention should be given to children belonging to vulnerable and marginalized groups, with a view to providing adequate services, including in the areas of education and health, and to overcoming persisting disparities. The Committee emphasizes that the interrelated and integrated nature of the rights provided for in the

Convention requires that the Convention be recognized as the general framework for reaching decisions on the allocation of resources for children. Moreover, in the light of article 4 of the Convention, international assistance provided to Panama should aim at the promotion of children's rights.

29. Further efforts are required to ensure the active participation of children and their involvement in all decisions affecting them in the family, at school and in social life, in the light of articles 12, 13 and 15 of the Convention.

30. The Committee recommends that effective public awareness campaigns be developed and that measures be adopted by the State party to provide appropriate assistance to the family in the performance of its child-rearing responsibilities, including parental guidance and counselling, with a view, inter alia, to preventing domestic violence and to prohibiting the use of corporal punishment as well as to preventing early pregnancies. It also recommends that the State party reinforce existing measures to protect children from harmful information.

31. The Committee recommends that the State party take all necessary measures to regulate and monitor national and international adoptions in order to prevent any violations of the principles and provisions of the Convention, especially its article 21. It is also recommended that adequate training be provided to concerned professionals. The Committee also suggests that Panama consider becoming a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

32. In the area of education, it is the view of the Committee that a range of measures should be undertaken by the State party to ensure the implementation of articles 28 and 29 of the Convention. Taking into account the strategy being developed, the Committee recommends that the State party focus greater efforts on eradicating illiteracy and on increasing access to school education by indigenous children and children living in rural areas. The Committee recognizes that this requires greater efforts in training teachers. The Committee also recommends that the State party take all necessary measures to fight school drop-outs and ensure retention.

33. As a means of tackling the integrated issues of education and child labour, the Committee recommends that all sectors of society and the economy become involved in implementing the Committee's recommendations that the Government undertake effective public campaigns to prevent and eliminate child labour, especially in rural areas, while systematically and forcefully encouraging the enrolment, retention and return of children to school. The Committee suggests that Panama consider becoming a party to ILO Convention No.138 concerning the minimum age for admission to employment and review all relevant standards. Regulations to prevent child labour should be clarified and enforced, complaints should be investigated and severe penalties imposed for violations. The Committee also suggests that the State party consider seeking cooperation with ILO in this area.

34. The Committee recommends that the Government of Panama ensure adequate protection of refugee children, including in the field of education. Procedures should be developed in cooperation with the Office of the

United Nations High Commissioner for Refugees (UNHCR) to facilitate family reunification as well as to appoint legal representatives for unaccompanied children and to apply, when relevant, child-friendly interview techniques.

35. The Committee encourages the State party to take all appropriate measures to prevent and combat sexual abuse and sexual exploitation of children and to ensure their physical and psychological recovery and social reintegration in the light of article 39 of the Convention.

36. The Committee further recommends that the juvenile justice system be revised to ensure its compatibility with the principles and provisions of the Convention, including those of its articles 37, 39 and 40, as well as of other United Nations standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In addition, it is recommended that the State party consider requesting technical assistance in this field from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the Secretariat.

37. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies presented by Panama be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.